

AFFIDAVIT OF

Joanna B. Lambert, being duly sworn, depose and state the following:

I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) of the United States Department of Justice and have been so employed since August 2001. I was previously employed as a police officer with the Windsor, CT Police Department for 5 ½ years. Prior to that, as a police officer with the Fairfield, CT Police Department for 1 ½ years. I attended the Criminal investigator Training Program at the Federal Law Enforcement Training Center (FLETC) in Glynco, GA from March 2002 to May 2002, where I received training and instruction as a Special Agent, including firearms training, the execution of search and arrest warrants, investigative techniques, and legal instruction which covered Fourth Amendment searches and seizures. From July 2002 to October 2002, I attended specialized training known as New Professional Training (NPT) through ATF at the FLETC, where I received instruction in firearms technology and identification, firearms trafficking, explosives and arson. During my career as a Special Agent, I have participated in the execution of numerous arrest warrants and search warrants. In May 2012, I completed the two year Certified Fire Investigation program. I am currently assigned to the Cleveland Group I Field Office located in Independence, Ohio. My responsibilities include investigating and enforcing Federal laws pertaining to arson/explosives and other violent crimes as well as conducting fire origin and cause scene examinations.

1. Based on information contained within this affidavit, I believe there is probable cause to arrest Andrew MARTIN for the offense of Use of Interstate Commerce Facilities in the Commission of Murder-For-Hire (Title 18, Section 1958, United States Code). As this affidavit is being submitted for the limited purpose of supporting a criminal complaint, I have not included each and every fact known to affiant concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause that MARTIN violated Title 18, Section 1958, United States Code.
2. On May 25, 2012, this affiant was contacted by Lakewood Fire Marshall Timothy Dunphy to assist with a fire investigation at a residential home located at 17225 Clifton Boulevard, Lakewood, Ohio. The fire scene was examined and found to be incendiary. A subsequent arson investigation ensued.
3. During the subsequent investigation, this affiant learned from Detective Terry Miller of the Lakewood Police Department that the home was previously owned by George Warehime who passed away on December 4, 2010. At the time of his death, Warehime had a sister named Joy Comey. Comey was appointed as administrator of his estate on January 12, 2011. During probate proceedings in the Cuyahoga County Probate Court, Comey acquired legal ownership of the house. Comey subsequently placed the house up for sale, located a buyer, and entered into a contract to sell the home.
4. On November 21, 2011, Comey went to the house located at 17225 Clifton Boulevard, Lakewood, Ohio, and discovered two men in the home, identified as David Simons and

Andrew MARTIN. Comey asked the two why they were in the home and she was told by Simons that her brother, George Warehime, had transferred the house to Simons by quit claim deed on February 8, 2010.

5. Comey reported this to the Lakewood Police Department and her attorneys. A lawsuit was filed in Cuyahoga County Probate Court between Comey and Simons regarding legal ownership of the property. Prior to November 21, 2011, Comey had never seen Simons or MARTIN. Comey had no knowledge that her brother George Warehime ever knew or ever had a relationship with David Simons or Andrew MARTIN.
6. MARTIN and Simons were acquaintances prior to November 21, 2011. MARTIN and Simons were arrested by the Shaker Heights Police Department on August 30, 2011, for Theft. MARTIN was not formally charged in the Shaker Heights Municipal Court and Simons was issued a citation. MARTIN stated in a deposition he provided on February 20, 2012, at Comey's attorney's office that he met Simons, a contractor, sometime around April 27, 2011, through an ad in Craig's List placed by Simons. MARTIN stated he was hired by Simons as the property manager for 17225 Clifton Boulevard, Lakewood, Ohio, just a few days before he and Simons were confronted at the property by Comey on November 21, 2011.
7. During a deposition provided at Comey's attorney's offices on February 13, 2012, Simons stated he spent a year living in South Carolina, and upon his return to the Cleveland, Ohio area around April 2011, he located a quit claim deed for the residence

located at 17225 Clifton Boulevard, Lakewood, Ohio, in his mail. Simons filed the quit claim deed on November 21, 2011.

8. Your affiant obtained a copy of the quit claim deed, which was recorded in Cuyahoga County on November 21, 2011. The quit claim deed, which showed the home was deeded to David Simons, bore the signature "George Warehime" with a date of February 8, 2010. The notary on the quit claim deed was listed as Rebecca E. Bungard, located in Trumbull County, Ohio.
9. In a deposition given by MARTIN at Comey's attorney's office on February 20, 2012, MARTIN denied making arrangements to have Bungard notarize the document and stated he wasn't aware that Bungard notarized the document.
10. During the continuing investigation, this affiant learned from Fire Marshal Tim Dunphy that there was a potential family connection between MARTIN and Bungard. On July 18, 2012, this affiant and Detective Terry Miller of the Lakewood Police Department interviewed Bungard. Bungard stated that MARTIN brought the quit claim deed to her house in Warren, Ohio, possibly sometime in 2010, and that she notarized the deed. Bungard stated that George Warehime was not present when she notarized the document. Bungard stated she lived with and had children with Paul Upshire, who is the father of MARTIN'S fiancée, Sara Upshire.
11. On May 15, 2012, David Simons executed an insurance policy from Grange Insurance Company for the residence at 17225 Clifton Boulevard, Lakewood, Ohio in the amount of \$600,000.

12. On May 25, 2012, at approximately 4:00 a.m., a fire occurred at 17225 Clifton Boulevard, Lakewood, Ohio. The fire was investigated and determined to be arson.
13. On June 1, 2012, Grange Insurance Company rescinded the previous policy issued to David Simons for the residence at 17225 Clifton Boulevard, Lakewood, Ohio, for failure to disclose water damage to the residence prior to the fire.
14. On August 6, 2012, David Simons executed a quit claim deed which transferred the property located at 17225 Clifton Boulevard, Lakewood, Ohio, to CHUH, LLC. CHUH, LLC is owned by Andrew MARTIN according the Secretary of the State of Ohio. On August 24, 2012, this affiant obtained the quit claim deed from the Cuyahoga County Recorder's website.
15. On September 12, 2012, this affiant obtained information from Attorney Franklin Hickman (Comey's attorney). Hickman stated that John Powers, a local contractor who worked with MARTIN, provided a deposition in the probate case involving 17225 Clifton Boulevard, Lakewood, Ohio, at Hickman's law office on February 15, 2012. Powers stated that MARTIN had approached him and asked him if he could find a notary that would be willing to back date a deed to a house because the man who owned the house had died before the deed could be notarized. MARTIN offered Powers money to have the deed notarized but Powers refused.
16. The probate dispute (case #2011 ADV-0173961) regarding the property at 17225 Clifton Boulevard is ongoing between Joy Comey (plaintiff) and David Simons and Andrew

MARTIN (defendants). According to Cuyahoga County Probate Court records and information obtained from Attorney Hickman, the case is set for trial on November 26, 2012, in Cuyahoga County Probate Court. On August 31, 2012, Joseph Triscaro, counsel for David Simons, filed a Motion to Withdraw as Counsel, which cited several reasons, including that the plaintiff (Comey) has presented evidence that his client may have persisted in a course of conduct involving illegal or fraudulent actions. On November 21, 2012, Bartholomew Catarino, the second attorney representing David Simons and Andrew MARTIN, filed a Motion to Withdraw as Counsel, and cited in his motion that the defendants had not met the fee requirements as agreed upon between the defendants and undersigned counsel, had failed to cooperate in negotiations with opposing counsel and had failed to comply with the advice given by counsel, which concluded it was impossible for him to adequately represent the defendants.

17. On October 31, 2012, this affiant was contacted by Detective Miller of the Lakewood Police Department. Detective Miller informed this affiant that a person hereinafter referred to as a Confidential Informant (CI) had contacted Detective Jeff Canter of the Maple Heights Police Department. The person was known to Detective Canter prior to this investigation. The CI stated that the previous week (later determined to be October 25, 2012) he had been a patient at the Cleveland Clinic Main Campus Emergency Room and had been solicited by a male emergency room nurse to kill a woman from Lakewood, Ohio. The CI had provided Detective Canter with the address of XXXX Leedale Avenue, Lakewood, Ohio, and a possible name of "Joy." Joy Comey's address is XXXX Leedale Avenue, Lakewood, Ohio (the address provided by the male nurse to the CI).

18. Your affiant spoke with Detective Canter regarding the CI. Detective Canter became acquainted with the CI in 2007. The CI was the friend to the victim of a crime which Detective Canter was investigating at the time. Detective Canter had stayed in contact with the CI since 2007. The CI is currently employed full time.
19. This affiant, along with Detective Miller of the Lakewood Police Department, interviewed the CI on October 31, 2012. The CI stated that he went to the Cleveland Clinic (main campus) emergency room about a week ago for treatment. The CI stated he was being treated by a male nurse (later identified as MARTIN) in the emergency room. He had never seen the nurse before. The nurse was a white male. While the nurse was treating him, the nurse said the CI "looked like a big guy," and asked if the CI ever "hurt anyone." The CI replied, "yes, no, maybe." The nurse then asked the CI if he had "ever killed anyone." The CI said "I shot someone in the leg once."
20. The CI stated the nurse asked him where he was from and the CI replied he was from Saint Clair Street in Cleveland. The nurse replied he was familiar with that area and said "y'all are crazy over there." The nurse told the CI he had a job for him to do if he was interested.
21. The CI said, yes, it depended on what . He (MARTIN) said he wanted the CI to "take somebody out." The CI asked who the person was. The nurse replied, "this 70 year old lady, she has been trying to mess up my life." The nurse said he wanted the CI to go to her house and when she answered the door he wanted the CI to "put four in her head and

make it look like a robbery.” The CI asked how far away it was and the nurse said it would be in Lakewood, Ohio. The CI agreed to do what the nurse asked. The nurse said he would call the CI if the CI was serious and would give him directions to the house. The nurse asked the CI how much for the job and the CI said \$10,000.00. The nurse agreed to the terms. The CI provided the nurse with his T-Mobile cellular phone number (216-820-XXXX) and the nurse said he would call. The nurse told the CI, “don’t come up to the ER and don’t call any numbers back if I call you.”

22. The CI stated the nurse would not give him his name. The CI stated he left the ER after being discharged. The CI called Detective Canter at the Maple Heights Police Department from the ER parking lot and reported what happened. The CI stated Detective Canter asked him if he knew the male nurse and the CI said no he was just a nurse who treated him. The CI reported that the potential female victim lived in Lakewood, Ohio.

23. The CI stated the nurse called him on October 30, 2012, at 4:21 PM. The CI received a telephone call on his cellular phone; the number he had provided the male nurse, from telephone number 216-445-XXXX. The nurse told him the address was on Leedale Avenue in Lakewood. The nurse gave the CI the specific house number. He said it was “10-something” Leedale Ave (subsequently identified as XXXX Leedale Ave., Lakewood, which is Comey’s address). The CI stated the nurse said the name “Joy” but he wasn’t sure if that was the street name or someone’s name at the time. The CI later provided your affiant with the piece of paper on which he had written down the

information provided to him during the phone call on October 30, 2012. In pencil on the paper were the words, "LaWood," "Joy," and "XXXX Leedale." The CI confirmed that he had never met the male nurse before his visit to the emergency room.

24. On October 31, 2012, the CI was shown a photographic lineup which contained six (6) photographs of similar looking white males, and which included a photograph of Andrew MARTIN. The CI selected MARTIN from the photo lineup and stated he was positive that was the male nurse that treated him at the ER.
25. On Monday, November 5, 2012, your affiant received a phone call from the CI, who stated the nurse had called him on his cellular phone from phone number (216) 636-XXXX. The CI was able to record the call with a recorder previously supplied to him by your affiant. The recorder was subsequently turned over to your affiant by the CI and the recording was reviewed.
26. During the recording, the CI asked what kind of car the victim drove and MARTIN said "silver." Joy Comey owns a silver, 2001 Mercedes Benz. During the call, MARTIN stated he thought the CI was already done and had planned on meeting the CI that night (November 5, 2012) to pay him. MARTIN said he thought the CI was going to finish up this weekend (November 3 and 4, 2012). The CI told MARTIN he had gone to the house and she wasn't there. The CI indicated to MARTIN that he had hidden a gun on the property. The CI stated he had gone to the house but the victim was not home. The CI told MARTIN that he wanted a down payment and MARTIN said he wouldn't pay any

money up front, that if he doesn't get a service he can't be putting anything down. The CI indicated to MARTIN, "I don't know you, and you don't know me." MARTIN replied, "right, but I don't know you, you don't know me so I can't be puttin' nothin' down." The CI said he had trouble finding the house and MARTIN replied, "I thought you said you were going at night, at like 11:00 or 12:00, when she was for sure to be there." The CI asked MARTIN to confirm the street name, "Leehale...Leedale, right?" MARTIN replied, "Mmmmm." The CI asked how much he would be paid. MARTIN answered, "It's gonna be exactly as discussed." The CI and MARTIN made an agreement that the job would be done on Thursday (November 8, 2012) and that MARTIN would call the CI on Friday (November 9, 2012) to set up a meeting "after dark" to pay the CI. The CI asked MARTIN to keep his word and MARTIN said, "you keep yours...be done by Thursday so we can settle up on Friday."

27. On November 8, 2012, this affiant contacted T-Mobile USA Law Enforcement Relations, who confirmed that cellular phone number (216) 820-XXXX is carried by T-Mobile, an interstate communications facilitator as defined in Title 18, Section 1958(b)(2), United States Code.

28. On November 9, 2012, the CI provided this affiant with a portion of the hospital discharge papers for his visit to the Cleveland Clinic on October 25, 2012. The CI had torn the papers up and discarded them after his visit, but located the remains in the trash at his residence. This affiant pieced together the document, which confirmed that the CI was seen at the Cleveland Clinic Main Campus Emergency Room on October 25, 2012 at approximately 9:30 a.m.

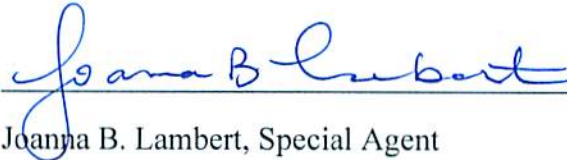
29. On November 13, 2012, this affiant received a phone call from the CI, who stated MARTIN called him on his cellular telephone from (216) 636-XXXX. The CI missed the first call, which was at 10:18 a.m. The CI received a second call from the same number at 10:19 a.m., which the CI answered. The CI was able to record the call using the recording device previously provided to him by your affiant. MARTIN asked the CI, "why isn't it done?" The CI asked MARTIN, "where you been, man?" and MARTIN replied, "waitin' on you, it's not completed." The CI advised MARTIN that it was done and that he hid the body in a closet in the basement. The CI told MARTIN he would take him to the house and show him. The CI stated he didn't like talking on the phone and MARTIN stated he didn't either but that that he hadn't been able to verify. The CI again said he would go over there (XXXX Leedale) with MARTIN and MARTIN said no, they shouldn't go there. The CI asked MARTIN what the next move was because he needed to get out of Cleveland. MARTIN stated they shouldn't be talking about it. MARTIN said he would call the CI after he got off work from another telephone number. MARTIN asked the CI the color of Comey's hair. MARTIN told the CI to give him a day for it to "settle." MARTIN told the CI he would "hit him back." MARTIN then stated a cover story of how he and the CI were acquainted. Martin stated he wanted to discuss another potential job which would involve the CI doing drywall/painting work for MARTIN. The CI told MARTIN he didn't know what MARTIN was talking about and MARTIN said, "you know, in case they put us together."

1:12 MJ 9175

CONCLUSION

Based on the aforementioned information, your affiant has probable cause to believe, that Andrew MARTIN used, or caused another to use a facility of interstate (cellular phone), with intent that a murder be committed in violation of the laws of any State or the United States as consideration for the receipt of, or as consideration for a promise or agreement to pay, anything of pecuniary value, or who conspired to do so, in violation of Title 18, United States Code, Section 1958, Use of an Interstate Facility in the Commission of Murder-For-Hire.

FURTHER AFFIANT SAYETH NOT.



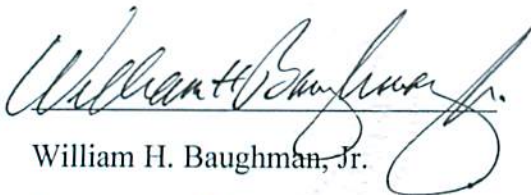
Joanna B. Lambert, Special Agent

Bureau of Alcohol, Tobacco, Firearms and Explosives

United States Department of Justice

SUBSCRIBED AND SWORN TO BEFORE ME

this 14th Day of November 2012



William H. Baughman, Jr.

United States Magistrate Judge